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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE WESTERN DISTRICT OF WASHINGTON**

10
11 JULIANNA ZIMBUREAN

12 Plaintiff,

13 v.

14 ROBERT JAMES AND ASSOCIATES, INC.;
15 and DOES 1 to 10, inclusive

16 Defendants.
17
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Case No.

**COMPLAINT FOR VIOLATIONS OF
THE FAIR DEBT COLLECTION
PRACTICES ACT ("FDCPA") AND
THE WASHINGTON COLLECTION
AGENCY ACT ("WCAA") AND THE
WASHINGTON CONSUMER
PROTECTION ACT (WCPA)**

JURY TRIAL DEMANDED

19 **COMPLAINT AND DEMAND FOR JURY TRIAL**

20 ***INTRODUCTION***

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22 1. This is an action for actual and statutory damages brought by plaintiff Julianna
23 Zimburean, an individual consumer, against defendant Robert James and Associates,
24 Inc. for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*
25 (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive,
26 deceptive, and unfair practices, for violations of the Washington Collection Agency Act,
27 RCW 19.16 *et seq.* (hereinafter "WCAA") and for violations of the Washington
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1 Consumer Protection Act, RCW 19.86 et seq. ((hereinafter “WCPA”) as described in
2 this Complaint herein below.

3 ***JURISDICTION***

- 4
5 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C.
6 § 1337 and 28 U.S.C. § 1367.
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8 3. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.
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10 4. Venue in this District is proper in that the Defendant transacts business here, and a
11 substantial part of the events or omissions giving rise to the claim occurred in this
12 District.

13 ***PARTIES***

- 14 5. Plaintiff, Julianna Zimburean, is a natural person allegedly obligated to pay any debt,
15 residing in Kitsap County, in the state of Washington.
16
17 6. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3) and a
18 “debtor” as defined by RCW § 19.16.100(11).
19
20 7. Upon information and belief, Defendant, Robert James and Associates, Inc. is a
21 corporation engaged in the business of collecting debt in this state with its principal
22 place of business located 266 Elmwood Avenue, Suite 369, Buffalo, New York 14222.
23 The principal purpose of Defendant’s business is the collection of debts, including
24 within this state.
25
26 8. Defendant is engaged in the collection of debts from consumers using the mail and
27 telephone. Defendant regularly attempts to collect consumer debts alleged to be due to
28 another.
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30 9. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

10. Defendant is a “collection agency” or an “out-of-state collection agency” as defined by RCW § 19.16.100.

FACTUAL ALLEGATIONS

11. Upon information and belief, within one year prior to the filing of this complaint, Defendant placed collection calls to Plaintiff, seeking and demanding payment for an alleged consumer debt owed under an account number.

12. The debt that Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

13. Upon information and belief, Defendant began contacting Plaintiff and placing collection calls to Plaintiff in October of 2011.

14. Upon information and belief, Defendant, during the initial communication to Plaintiff during October of 2011, which was an oral message left for Plaintiff on her telephone’s voicemail, did not state that Defendant was a debt collector, attempting to collect a debt, and that any information would be used for that purpose.

15. Upon information and belief, Defendant’s agent, during the above referenced communication, lied to, or at the very least misled Plaintiff, stating that he was calling in regards to a, “[C]ivil filing,” when no case has been filed against Plaintiff by Defendant.

16. Defendant utilized unfair and unconscionable means to collect on Plaintiff’s alleged debt, by lying to or at the very least misleading Plaintiff.

1 17. As a result of the acts alleged above, Plaintiff suffered emotional distress resulting in her
2 feeling stressed.

3 ***FIRST CLAIM FOR RELIEF***

4 18. Plaintiff repeats and re-alleges and incorporates by reference to the foregoing paragraphs
5 1-17.

6 19. Defendant violated the FDCPA. Defendant's violations include, but are not limited to,
7 the following:
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9 (a) Defendant violated §1692e(10) of the FDCPA by using false, deceptive, or
10 misleading representation or means in connection with the collection of
11 Plaintiff's alleged debt; and
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13 (b) Defendant violated §1692f of the FDCPA by using unfair or unconscionable
14 means in connection with the collection of an alleged debt; and
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16 (c) Defendant violated §1692e(2)(B) of the FDCPA by falsely representing the
17 services rendered or compensation which may be lawfully received by the
18 Defendant for the collection of the alleged debt; and
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20 (d) Defendant violated §1692e(11) of the FDCPA by failing to disclose in the initial
21 oral communication with Plaintiff that the communication was from a debt
22 collector, and that the debt collector was attempting to collect a debt, and that
23 any information obtained would be used for that purpose, when said
24 communication was not a formal pleading.
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26 20. Defendant's acts as described above were done intentionally with the purpose of
27 coercing Plaintiff to pay the alleged debt.
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1 21. As a result of the foregoing violations of the FDCPA, Plaintiff, Julianna Zimburean, is
2 entitled to declaratory judgment that Defendant's conduct violated the FDCPA and
3 Defendant is liable to the Plaintiff for actual damages, statutory damages, and costs and
4 attorney fees.
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6 ***SECOND CLAIM FOR RELIEF***

7 22. Plaintiff repeats and re-alleges and incorporates by reference to the foregoing paragraphs
8 1-21.
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10 23. Defendant violated the WCAA. Defendant's violations include, but are not limited to,
11 the following:
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13 (a) Defendant violated section 19.16.110 of the RCW by acting as a collection agency
14 without first having applied for and obtained a license from the director of licensing;
15 and
16

17 (b) Defendant violated section 19.16.250(13) of the WCAA by communicating with
18 Plaintiff in such a manner as to harass, intimidate, threaten, or embarrass a debtor.
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20 ***THIRD CLAIM FOR RELIEF***

21 24. Plaintiff repeats and re-alleges and incorporates by reference to the foregoing paragraphs
22 1-23.
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24 25. Defendant has violated the WCPA.

25 26. RCW 19.16.440 provides, "The operation of a collection agency or out-of-state
26 collection agency without a license as prohibited by RCW 19.16.110 and the
27 commission by a licensee or an employee of a licensee of an act or practice prohibited
28 by RCW 19.16.250 are declared to be unfair acts or practices or unfair methods of
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1 competition in the conduct of trade or commerce for the purpose of the application of the
2 Consumer Protection Act found in chapter 19.86 RCW.”

3 27. A violation of the WCAA constitutes a *per se* violation of the WCPA.

4 28. Defendant has engaged in an unfair and/or deceptive act(s) and/or practice(s), and/or
5 act(s) and/or practices having the capacity to deceive, in the course of trade or
6 commerce, which affect(s) the public interest.
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8 29. As a result of the foregoing violations of the WCPA, Defendant is liable to Plaintiff,
9 Manuel Castro, for declaratory judgment that Defendant’s conduct violated the WCPA,
10 actual damages, statutory damages, treble damages, and costs and attorney fees.
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12 ***PRAYER FOR RELIEF***

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14 WHEREFORE, Plaintiff respectfully requests that judgment be entered against
15 Defendant Robert James and Associates, Inc. for the following:

16 A. Declaratory judgment that Defendant’s conduct violated the FDCPA, WCAA and
17 WCPA;
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19 B. Actual damages pursuant to 15 U.S.C. § 1692k, RCW 19.16 et seq, and/or RCW
20 19.86.090;
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22 C. Statutory damages pursuant to 15 U.S.C. § 1692k, RCW 19.16 et seq, and/or RCW
23 19.86.090;
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25 D. Treble damages pursuant to RCW 19.86.090;

26 E. Pre and Post-Judgment Interest;

27 F. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k, RCW 19.16 et
28 seq, and/or RCW 19.86.090; and
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30 G. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff Julianna Zimburean demands trial by jury in this action.

Respectfully submitted this 4th day of May, 2012.

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